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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,187	02/14/2001	Tetsuro Motoyama	194543US-2	9855
22850	7590	01/26/2006		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER ISMAIL, SHAWKI SAIF	
			ART UNIT	PAPER NUMBER
			2155	
DATE MAILED: 01/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/782,187

Applicant(s)

MOTOYAMA ET AL.

Examiner

Shawki S. Ismail

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **RESPONSE TO AMENDMENT**

1. This communication is responsive to the Appeal Brief filed on November 2, 2005. Applicant's arguments, with respect to the rejection(s) of claim(s) 1-36 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made. Claims 1-36 are pending further examination.

### **The New Grounds of Rejection**

2. Applicant's amendment and arguments received on November 2, 2005 have been fully considered, however they are deemed to be moot in view of the new grounds of rejection.

### **Claim Rejections - 35 USC §102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 13-19 and 25-31 are rejected under 35 U.S.C. 102(e) as being anticipated by **Knight et al.**, (Knight), U.S. Patent No. **6,314,460B1**.

5. As to claims 13 and 25 Knight teaches an object-oriented computer implemented method for collecting information regarding execution of a target application in an application unit, the method comprising the steps of:

monitoring the target application, by a device having a plurality of monitoring components to obtain the information regarding execution of the target application (col. 3, lines 17-25 and col. 9, line 62 – col. 10, line 11, the central manager contains a monitoring function and contains agents that monitors and gathers data from the host computer and returns it to the central manager),

wherein the plurality of monitoring components includes an event logger (col. 3 line 61-col. 4, line 6), and

wherein the step of monitoring includes the steps of accessing a shared system resource and executing a plurality of instructions included in the system resource (Fig. 7, col.10, lines 59-67, col. 11, lines 12-40, and col. 13, lines 1-39.); and

storing, in the event logger, a portion of the information obtained by the step of monitoring (col. 3 line 61-col. 4, line 6).

6. As to claims 14 and 26, Knight teaches the system according to claim 13 and 25, respectively, wherein the at least one system resource component includes at least one of a system clock, persistent system information storage, electronic mail transfer code and file transfer code (col. 12, lines 21-33, storing data redundantly.)

7. As to claims 15 and 27, Knight teaches the system according to claim 13 and 25, respectively, wherein at least one of the plurality of monitoring components accesses the system resource using a system resource interface (col. 18, lines 13-40, the agents

contain Local Library 1001 and network daemon 1002 obtain data needed by the monitoring system.)

8. As to claims 16 and 28, Knight teaches the system according to claim 13 and 25, respectively, wherein the target application includes one of a software program being executed on a computer or workstation under control of a user, a software program driving a control panel of a business device, a software program driving a control panel of an appliance, software generating data regarding state changes within a device, and software generating data regarding state changes within an appliance (col.13, line 45 - col. 14, line 7.)

9. As to claims 17 and 29, Knight teaches the system according to claims 13 and 25, respectively, wherein the information regarding execution of a target application includes at least one of a user identification, an application identification, a cumulative session number, a value of a starting time, a value of a duration and an indication of a sequence of events with a corresponding elapsed time for each one of the events (col. 3 line 61-col. 4, line 6 and col. 30, lines 1-6.)

10. As to claims 18 and 30, they do not further teach or define any new limitation above claims 14 and 17, and 26, and 29, respectively; therefore they are rejected for similar reasons.

11. As to claims 19 and 31, Knight teaches the system according to claims 13 and 25, respectively, wherein the monitoring device having a plurality of monitoring components includes an event logger and wherein the at least one system resource component includes a system clock, wherein the event logger accesses the system

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clock at least for recording a time of starting a monitoring session (col. 3 line 61-col. 4, line 6.).

### **Claim Rejections - 35 USC § 103**

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 20-24, and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Knight et al., (Knight)**, U.S. Patent No. **6,314,460B1** and in view of **Kremen et al., (Kremen)**, U.S. Patent No. **5,706,434**.

14. As to claim 20-24 and 32-36, Knight teaches the system according to claim 13 and 25, respectively, wherein the central manager contains a monitoring function and contains agents that monitors and gathers data from the host computer and returns it to the central manager. However Knight does not explicitly teach wherein the transmitting device transmits formatted data according to a requested data format or a requested communication protocol.

Kremen teaches a method and apparatus to accomplish creation and serving of data objects. Kremen teaches a formatting of data received by a processor into a format that is recognizable by the end user and formats the data for outgoing

transmission according to a protocol of an intended recipient (Abstract, col. 5, lines 20-59 and col. 7, lines 48-67.)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of Knight and Kremen to incorporate a data formatter in order to offer diverse clients with different or varying capabilities to communicate and amongst each other (col. 2 line, 61 – col. 3, line12.)

15. Claim 1-7, 13-19 and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Knight et al.**, (Knight) U.S. Patent No. **6,314,460B1** and in view of **Fontana et al.**, (Fontana) U.S. Patent No. **6,237,143**.

16. As to claim 1 Knight teaches an object-oriented system for collecting information regarding execution of a target application in an application unit (col. 9, lines 51-53), the system comprising:

monitoring device having a plurality of monitoring components (col. 3, lines 17-25 and col. 9, line 62 – col. 10, line 11, the central manager contains a monitoring function and contains agents that monitors and gathers data from the host computer and returns it to the central manager);

a system resource having at least one system resource component shared among the plurality of monitoring components using at least one abstract class (Fig. 7, col.10, lines 59-67, col. 11, lines 12-40, and col. 13, lines 1-39.)

Knight does not explicitly teach wherein a target application interface is configured to receive a plurality of monitoring requests from the target application for processing by the monitoring device.

Fontana teaches a method and system for monitoring and capturing file usage of a software tool. Fontana teaches a start monitoring request issued by the tool wrapper 30 to direct the file filter software to start monitoring the input/output operations performed by the tool 17.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the teaching of Fontana into the invention of Knight to be able to start and stop monitoring system usage of an application at the request of the application in order to accurately monitor the overall system.

17. As to claim 2 Knight teaches the system according to claim 1, wherein the at least one system resource component includes at least one of a system clock, persistent system information storage, electronic mail transfer code and file transfer code (col. 12, lines 21-33, storing data redundantly.)

18. As to claim 3 Knight teaches the system according to claim 1, wherein at least one of the plurality of monitoring components accesses the system resource using a system resource interface (col. 18, lines 13-40, the agents contain Local Library 1001 and network daemon 1002 obtain data needed by the monitoring system.)

19. As to claim 4 Knight teaches the system according to claim 1, wherein the target application includes one of a software program being executed on a computer or workstation under control of a user, a software program driving a control panel of a business device, a software program driving a control panel of an appliance, software generating data regarding state changes within a device, and software generating data regarding state changes within an appliance (col.13, line 45 - col. 14, line 7.)



20. As to claim 5 Knight teaches the system according to claim 1, wherein the information regarding execution of a target application includes at least one of a user identification, an application identification, a cumulative session number, a value of a starting time, a value of a duration and an indication of a sequence of events with a corresponding elapsed time for each one of the events (col. 3 line 61-col. 4, line 6 and col. 30, lines 1-6.)

21. As to claim 6 it does not further teach or define any new limitation above claims 2 and 5, therefore it is rejected for similar reasons.

22. As to claim 7 Knight teaches the system according to claim 1, wherein the monitoring device having a plurality of monitoring components includes an event logger and wherein the at least one system resource component includes a system clock, wherein the event logger accesses the system clock at least for recording a time of starting a monitoring session (col. 3 line 61-col. 4, line 6.)

23. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Knight et al.**, (Knight), U.S. Patent No. **6,314,460B1** and in view of **Fontana et al.**, (Fontana) U.S. Patent No. **6,237,143** and further in view of **Kremen et al.**, (Kremen), U.S. Patent No. **5,706,434**.

24. As to claim 8-12 Knight teaches the system according to claim 1, wherein the central manager contains a monitoring function and contains agents that monitors and gathers data from the host computer and returns it to the central manager. However Knight does not explicitly teach wherein the transmitting device transmits formatted data according to a requested data format or a requested communication protocol.

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Kremen teaches a method and apparatus to accomplish creation and serving of data objects. Kremen teaches a formatting of data received by a processor into a format that is recognizable by the end user and formats the data for outgoing transmission according to a protocol of an intended recipient (Abstract, col. 5, lines 20-59 and col. 7, lines 48-67.)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of Knight, Fontana and Kremen to incorporate a data formatter in order to offer diverse clients with different or varying capabilities to communicate and amongst each other (col. 2 line, 61 – col. 3, line12.)

### **Response to Arguments**

25. Applicants' arguments with respect to claims 1-36 filed on November 2, 2005 have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawki S Ismail whose telephone number is 571-272-3985. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shawki Ismail  
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January 21, 2006



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